

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EARNEST D. WHEELER,

Defendant.

8:19CR27

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's letter, filed as a Motion for Compassionate Release, ECF No. 50. The Defendant seeks a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A) as amended by Section 603 of the First Step Act, Pub. L. No. 115-391, 132 Stat. 5194 (2018). The Government opposes the Motion. See Government's Brief, ECF No. 52.

In Section 603 of the First Step Act, congress amended 18 U.S.C. § 3582(c)(1)(A) to permit defendants to move a sentencing court for compassionate release "after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier."

The Defendant makes no allegation that he submitted any request for compassionate release to the warden of his facility, and he has submitted no evidence of his initiation of any administrative remedies.

Accordingly,

IT IS ORDERED:

1. The Defendant's letter filed as a Motion for Compassionate Release, ECF No. 50, is denied;

2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 20th day of May 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge